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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the former Yugoslav Republic of Macedonia

Final report submitted by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1997/57

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INTRODUCTION

1. The present report is submitted to the Commission on Human Rights pursuant to resolution 1997/57. In paragraph 43 of that resolution the Commission requested the Special Rapporteur, Mrs. Elisabeth Rehn, to provide a final report on the former Yugoslav Republic of Macedonia to the Commission by 30 September 1997 and decided, unless the Special Rapporteur were to recommend otherwise, to discontinue its consideration of the former Yugoslav Republic of Macedonia upon submission of the report.

2. Since assuming her mandate two years ago, in September 1995, the Special Rapporteur has closely followed developments in the former Yugoslav Republic of Macedonia. She has been assisted substantially in this endeavour by the Skopje office of the Office of the United Nations High Commissioner for Human Rights (UNHCHR). With a view to preparing the present report the Special Rapporteur conducted a mission to the country from 27 to 29 August 1997. During the visit she held discussions with the President of the Republic and the Ministers of Foreign Affairs, Internal Affairs, Education and Physical Culture, and Justice. She also met with the Special Representative of the United Nations Secretary-General, the Force Commander of the United Nations Preventive Deployment Force (UNPREDEP) and the Commander and soldiers of the Nordic Battalion, the head of the Skopje Liaison Office of the Office of the United Nations High Commissioner for Refugees (UNHCR), and an officer of the Spill-over Mission of the Organization for Security and Cooperation in Europe (OSCE). The mission further included meetings with the newly appointed Ombudsman, and representatives of the local authorities of the Municipality of Gostivar, the Democratic Forum of Gostivar, the Macedonian Helsinki Human Rights Committee and the media.

3. The Special Rapporteur wishes to thank the President of the Republic, the Government of the former Yugoslav Republic of Macedonia, officials of UNPREDEP and all others who have provided information and assistance to her and to the Skopje office of UNHCHR for their generous cooperation in the exercise of her mandate.

I. GENERAL OBSERVATIONS

4. Since the mandate of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia was first established by the Commission on Human Rights in 1992 (resolution 1992/S-1/1), the Government of the former Yugoslav Republic of Macedonia has made considerable achievements both in the maintenance of peace and in the protection of human rights.

5. It is especially gratifying to note that, in contrast to other countries emerging from the dissolution of the Socialist Federal Republic of Yugoslavia, the former Yugoslav Republic of Macedonia has succeeded in staying at peace with its neighbours in a volatile region. While the presence of UNPREDEP has played an important role in this achievement, the Government also deserves great credit. All indications are that the Government remains committed to implementing policies which will continue this encouraging trend.

6. The Special Rapporteur has noted the increasing contacts between the former Yugoslav Republic of Macedonia and its neighbours, including the

establishment of diplomatic relations with Greece in September 1995 and with the Federal Republic of Yugoslavia in April 1996, and the evolving cooperation with both of these countries. There is, however, no room for complacency and developments in the region will need to be closely monitored. The greatest cause for concern presently is the instability in the Republic of Albania and its implications for the security situation of the former Yugoslav Republic of Macedonia. The Special Rapporteur has noted recent incidents in the border areas with the Republic of Albania and the threat posed by an increase in weapons smuggling and other illegal activities. She looks to the Government of the former Yugoslav Republic of Macedonia to protect the security of its citizens in the region while at the same time ensuring that the human rights of all persons, including foreign nationals, are duly respected.

II. LEGAL PROTECTIONS

7. Although the process of legislative reform in the former Yugoslav Republic of Macedonia has been slow and the Constitutional Court has had to intervene on occasion to bring the laws into conformity with the Constitution, most basic laws have now been put in place and the legal structure of the State has been established. This in turn has given substance to the Constitution and created a basis for the respect and promotion of human rights.

8. The reform of the judiciary gained momentum with the implementation of the new Law on Courts beginning in July 1996. As may be expected in such a process, initial findings of the Republic's Judicial Council on the performance of the restructured legal system indicated that many courts still face technical and financial difficulties. Moreover, the Judicial Council made disturbing observations about lengthy delays in court proceedings, and challenged the competence as well as the independence of some judges. It is to be hoped that, in the shortest possible time, these problems will be addressed and an efficient and fair legal system will be firmly put in place.

9. In the area of international law, the former Yugoslav Republic of Macedonia has undertaken many important human rights obligations which should be of lasting benefit to all its citizens. The country is a State party to virtually all major international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child.

10. In a most positive development, the former Yugoslav Republic of Macedonia became a State member of the Council of Europe in November 1995. It ratified the European Convention on Human Rights and several of its Protocols in 1997, assuming additional important human rights obligations. The country is also a State party to the Framework Convention for the Protection of National Minorities.

III. NATIONAL INSTITUTIONS: THE OFFICE OF THE OMBUDSMAN

11. Since assuming her post, the Special Rapporteur has repeatedly recommended to the Government that it establish an ombudsman's office to represent citizens' human rights interests before the Government. She is thus most pleased to report the creation of the Office of the Ombudsman following the passage of the Law on the Ombudsman in February 1997. During her mission to the country in August 1997, the Special Rapporteur met with the newly appointed Ombudsman, Mr. Branko Naumovski, to learn about the operational status of the office and exchange views on maximizing its effectiveness.

12. The Ombudsman informed the Special Rapporteur that due to the short time he had been in the post (he was appointed in July 1997), the Office had not yet become operational, but he expected that it would be functioning by December 1997. Its budget had been approved by the Parliament. He explained that the Office would not take a regional approach to its work, but instead would cover the entire country out of Skopje. The Ombudsman will be assisted by four Deputy Ombudsmen, as well as some 15 legal professionals.

13. The Special Rapporteur and the Ombudsman agreed on several key aspects of the Ombudsman's role. His Office must be accessible to all members of society to assist in the resolution of grievances. He must respond within a reasonable time to complaints filed by citizens, and also institute proceedings himself when called for by current events. He should use both formal decisions and public statements to advance the public interest.

14. Above all, the Ombudsman should remain faithful to his Office's independence. The Special Rapporteur emphasizes that the Ombudsman's primary role is to defend citizens against unlawful or improper government action, and therefore his position with respect to the Government is essentially adversarial.

IV. RIGHT TO SECURITY OF PERSON - THE GOSTIVAR INCIDENT

15. On 9 July 1997, the Government of the former Yugoslav Republic of Macedonia, enforcing an order of the Constitutional Court, conducted a police action in the towns of Gostivar and Tetovo to compel the removal of Albanian and Turkish flags installed by local authorities in front of municipal buildings. The question of the right of minorities to foster their cultural identities, including through the use of symbols, is discussed below (sect. VI.D). However, the Special Rapporteur was extremely concerned by methods used by the police in Gostivar during a violent confrontation with ethnic Albanian demonstrators that followed the removal of the flags by the police in the early morning hours. The clash between police and demonstrators on 9 July in Gostivar resulted in the deaths of 3 persons and injuries to some 200 others.

16. The controversy over flags had begun in April 1997, when municipal authorities in Gostivar and Tetovo, taking advantage of a "legal vacuum" on the issue, decided to use the flags of minorities (the Albanian and Turkish flags in Gostivar and the Albanian flag in Tetovo) equally with the national flag in front of the municipal halls. The example was followed by almost all municipalities in the western region of the former Yugoslav Republic of

Macedonia, where the ethnic Albanian and Turkish populations are concentrated. Gostivar's decision was contested before the country's Constitutional Court, which decided on 21 May 1997 temporarily to suspend the disputed policy and ordered the flags to be removed pending a final judgement in the case. The Mayor of Gostivar, however, refused to carry out the order, and on 4 June the Court requested the assistance of the Government in enforcing its decision. The Government at first refrained from taking action and commenced urgent deliberations on a new law on the use of flags. Meanwhile, on 26 June 1997, the Constitutional Court issued a similar order for the removal of minority flags in Tetovo, during proceedings conducted in parallel to those concerning Gostivar. This order, too, went unimplemented by local authorities. Later the Court annulled both towns' decisions on use of the flags as unconstitutional.

17. A new law on the use of minority flags was enacted on 8 July 1997 (see below, sect. VI.D). However, to enforce the Constitutional Court's earlier orders, the Government in the early morning hours of 9 July launched police actions in Gostivar and Tetovo, which began when police officers forcibly entered the town halls and removed the flags at issue. The police remained in the towns as the day went on, as crowds of ethnic Albanian demonstrators grew. In Gostivar, the rising tension erupted into violence in the afternoon between demonstrators and the police.

18. On the basis of the information that has been made available to her, the Special Rapporteur has concluded that the police used excessive force against demonstrators during the confrontation in the streets of Gostivar. She also believes that the police used excessive force and illegal methods afterwards, when they conducted a neighbourhood sweep of residents' homes. During the incident in the streets, police brutally attacked and beat many people who were offering no resistance, in some cases even assaulting children. In a case brought to the Special Rapporteur's attention, UNPREDEP observers at the scene saw one youth of perhaps 12 years old who had been struck so violently in the face that he was virtually unrecognizable due to his wounds. Police were reported to have used lethal force - firearms - against participants in the demonstrations. In addition, in the hours after the street violence, police went to scores of local residences of ethnic Albanians, without court orders, ransacking property and in many cases beating Albanian men, often in view of members of their families. The police detained dozens of persons, many of whom were reportedly beaten while in police custody.

19. In her meetings with government officials during her mission of 27-29 August, the Special Rapporteur was informed that, prior to the police action, the authorities had received indications that members of the local Albanian populations in Gostivar and Tetovo were planning armed resistance against any attempt to remove the flags. Police who entered the town halls during the early morning hours to remove the flags allegedly found a number of unregistered weapons, as well as documentation related to so-called "crisis committees" which it was envisaged would take action if authorities attempted forcible removal of the flags. The Government further told the Special Rapporteur that some individuals among the demonstrators possessed and used weapons themselves, ranging from stones to Molotov cocktails and firearms, placing police in danger. The Special Rapporteur has noted with regret that police officers also suffered injuries during the Gostivar incident.

20. Nevertheless, the Special Rapporteur is convinced that the force used by the police in the Gostivar incident far exceeded the reasonable level required to restore law and order to the situation. Indeed, some government officials with whom the Special Rapporteur met told her that they, too, believe that reasonable bounds were exceeded.

21. At the time of her visit at the end of August, the Special Rapporteur was informed that the Government was conducting an inquiry that would ascertain whether police exceeded their authority during events in Gostivar. In communications with the Government following her visit, she was further notified that, on 5 September 1997, the Parliament decided to establish a "survey commission" that will operate independently from the Government and present a report on its findings within 30 days after its establishment.

22. The Special Rapporteur notes with concern, however, that until the time of writing of this report, no police officer implicated in the use of excessive force during the events in Gostivar had been the subject of legal inquiry or suspended from duty pending results of such an inquiry. This is especially difficult to accept since the confrontation was clearly broadcast on national television, and the identities of at least some of the officers involved would not be difficult to ascertain.

23. Meanwhile, legal proceedings have advanced rapidly against persons who participated in the demonstrations as well as against leaders of the municipalities involved. In barely two months, courts of first instance reached judgements in a number of cases, almost invariably finding the defendants guilty. The Mayor of Gostivar, Mr. Rufi Osmani, was found guilty on 16 September on charges including disobeying an order of the Constitutional Court (which he did not contest), and instigating national hatred and calling for popular resistance to the authorities, which he denied. He was sentenced to 13 years and 8 months in prison. It may be noted that the defence raised a number of complaints of procedural violations, including that documents presented as material evidence were merely read aloud and not given to the defence to review, and that the judge improperly rushed the proceedings, preventing the presentation of an adequate defence. The defendant's lawyers actually resigned in protest before the pronouncement of sentence, and the court immediately appointed a replacement.

V. RIGHT TO FREEDOM FROM ARBITRARY ARREST AND DETENTION

24. The Special Rapporteur has long expressed her concern about the prevalence in the former Yugoslav Republic of Macedonia of arrests conducted by police in violation of legal safeguards, often without presentation of supporting court orders. She has been particularly troubled by the arbitrary and unlawful practice of forcing citizens to attend so-called "informative talks".

25. In this regard, the Special Rapporteur welcomed a decision of the Constitutional Court in February 1997 and the enactment of the new Law on Criminal Procedures in March 1997, both of which provide that police may not compel persons to attend "informative talks" without a written court order. Despite these legal developments, however, the Special Rapporteur is informed that the provisions of the new law often continue to go unimplemented.

Following the Gostivar incident on 9 July 1997, several hundred people reportedly were summoned by the police for "informative talks" without presentation of any lawful supporting documentation whatsoever. Moreover, the Special Rapporteur was informed by the Minister of Justice that even when legal forms were used, they were outdated - purportedly due to insufficient time to prepare new forms. The failure by the authorities to give full effect to the new provisions of the Law on Criminal Procedures is of continuing concern to the Special Rapporteur.

VI. MINORITY RIGHTS

26. According to the 1994 census, national minorities represent 31.5 per cent of the total population of the former Yugoslav Republic of Macedonia. In addition to the ethnic Macedonian majority, the population is 22.8 per cent Albanian, 4 per cent Turk, 2.2 per cent Roma, 2.1 per cent Serb and 0.4 per cent Vlach. The Special Rapporteur has noted the basic principle of the Government's minority policy, which has been to support the fostering of the identities of minority groups while at the same time seeking to integrate them into Macedonian society. She is pleased at the Government's evident awareness of the need constantly to improve the position of minorities and fulfilment of their rights. In some instances, however, the Government's ability to achieve the full implementation of its policies is impeded by objective circumstances, while in others, the extent of its commitment to progress may reasonably be questioned.

27. The Special Rapporteur notes that minorities enjoy the benefits of several State-financed minority culture and art associations and several radio and television programmes and newspapers in minority languages. In addition, minority populations take part in political life in the former Yugoslav Republic of Macedonia, but their participation still needs to be strengthened. Currently 22 members of the 120-seat Parliament belong to minority groups, 19 of whom are ethnic Albanians representing 3 different political parties. Among the 20 Ministers of the Government, 5 are Albanians from the Party for Democratic Prosperity. The participation of minorities in State administration has followed a positive trend, more than tripling in the last seven years. While in 1990 the percentage of representation was less than 2 per cent, in 1996 it ranged from some 8 per cent of official positions at the Ministry of Defence and in the army (including at the junior officer level as well as one general out of five), 9 per cent at the Ministry of Internal Affairs, 10 per cent at the Ministry of Education and 16 per cent at the Ministry of Foreign Affairs. Overall, however, minority representation is still well below the level commensurate with minorities' percentage of the population.

28. In the judiciary, fewer than 15 per cent of judges belong to a minority group. The Government has indicated that, although there is increasing interest among prospective minority appointees, the candidates' qualifications sometimes fall below minimum professional standards, hindering their recruitment. Better educational opportunities are thus needed to strengthen minority representation in this area.

A. Language and education

29. All primary and secondary education in the former Yugoslav Republic of Macedonia is available in minority languages, according to students' needs and interest. Primary education, which is compulsory, is available in Macedonian, Albanian, Turkish and Serbian. In 1995 extracurricular instruction in the Vlach language was started, while in 1996 optional education in the Roma language was introduced at four elementary schools. As has been reported previously, in the school year 1995/96 minority students represented some 30 per cent of all children in primary education, which was an increase compared with previous years.

30. In secondary education, which is not compulsory, instruction is offered in the Macedonian, Albanian and Turkish languages. There has been an upward trend in the participation of minority students in secondary education in their mother tongue, from some 10 per cent in 1994/95 to over 13 per cent in 1996/97. It is noteworthy that the number of students from the Albanian minority has doubled since 1992. However, this level is still not satisfactory and minority students, in particular Albanian girls, have been encouraged by the Government to enrol in the secondary schools.

31. Faced with the fact that conflicts with ethnic dimensions are an unavoidable part of life and source of tension in the country, in the fall of 1996 the Skopje Faculty of Philosophy and the Ministry of Education initiated the Ethnic Conflict Resolution Project. It consists of two parts: "conflict resolution games" designed for children aged 10-11, and "conflict awareness seminars" designed for older groups. The project involves primary and secondary school students at selected schools in areas with mixed ethnic Macedonian and Albanian populations, as well as teachers and students of the Skopje Pedagogical Faculty. In spring 1997 the project was included in the regular curricula of 45 classes at 20 primary schools and became a regular activity at 15 primary and 9 secondary schools.

32. The Special Rapporteur has noted the positive trend resulting in an increase in the opportunities for minority populations to receive education in their own languages, and she acknowledges the efforts of the Government to meet its obligations in this area. She has noted that, due to financial constraints, the Government has not always been able fully to achieve the requirements established by law.

33. The question of a minority curriculum for ethnic Turkish children from Debarska Zupa remains open. The parents of some 200 primary school children, whom the parents have declared to be ethnic Turks, have persistently demanded instruction in the Turkish language, while the Ministry of Education has rejected the demands, claiming the children lack even a fundamental command of the language. The Ministry has repeatedly declared, moreover, that the children in fact are not ethnic Turks, but Macedonians. While the Ministry has stood by its position, the parents have kept their children out of available Macedonian-language institutions and sent them to classes at unauthorized Turkish-language schools.

B. Higher education

34. Minority students in higher education have demanded that the State provide full instruction at public universities in their mother tongues. The authorities, citing the need for integration of all Macedonian citizens into the society of the former Yugoslav Republic of Macedonia, have refused to honour the demands. One result was the founding of the unofficial "Tetovo University", an Albanian-language institution, which has consistently been denied State recognition (see sect. VI.C below). Almost all instruction at the higher education (university) level is in the Macedonian language. Albanian and Turkish students do have the possibility to receive instruction in their mother tongues in specialized courses at the Skopje Faculty of Dramatic Arts and in courses on Albanian and Turkish language and literature at the Skopje Faculty of Philology. The possibility to receive part of one's instruction in a minority language also exists at the Pedagogical Faculty in Bitola, while at the Skopje Pedagogical Faculty courses with full instruction in the Albanian and Turkish languages were introduced in January 1997.

35. The participation of minority students in officially recognized higher education has improved since the establishment of the 10 per cent quota for minority enrolment in university in 1991/92, and especially after the quota's adjustment in 1996/97 so that it now corresponds to the respective minorities' representation in the country's total population. The Special Rapporteur was informed by government officials that 10 per cent of the students enrolled in the two universities in the country in the first enrolment period of 1997/98 belonged to the Albanian minority, and that the expectation is that the final number will be even larger.

36. The Special Rapporteur has noted the attempts of the Government to address the issue of higher education for minorities and, in particular, to reach agreement with members of the Albanian minority concerning their desire to receive higher education in their mother tongue. The Law on Languages of Instruction at the Skopje Pedagogical Faculty, enacted in January 1997 under pressure from ethnic Albanian students, was a step forward in this regard, providing for instruction in Albanian and Turkish for future teachers. The full implementation of the Law has been delayed because the Pedagogical Faculty was unable to provide qualified Albanian-speaking professors within a short period of time. The addition of new postgraduate courses at the St. Cyril and Methodius University in Skopje, specially designed to meet the requirements of the Pedagogical Faculty, will lead to future improvement of this situation. In May 1997, the delays led Albanian students at the Pedagogical Faculty to organize classes on their own. After negotiations, however, the students reportedly reached an understanding with the faculty administration and rejoined normal classes.

37. The Special Rapporteur wishes to point out that controversy over the field of higher education will persist until enactment of a new Law on Higher Education. Deliberations on such a law were initiated nearly two years ago, in November 1995, and it was recently announced that a second reading and debate on a draft law would take place at the Parliament by the end of September 1997. Nevertheless, the process seems to have taken an excessively long time.

38. While the Constitution, for its part, does not prohibit the use of minority languages in higher education or set limitations on their use in private institutions, the current draft law provides for instruction in minority languages only in the pedagogical faculties, as well as in some subjects in other faculties related to the promotion of the cultural and national identities of minorities. The draft law does not expressly prohibit use of minority languages at private institutions, but it is argued that the Government could use its regulatory powers under the law to deny official registration to private institutions which use minority languages.

39. In March 1997 the draft law on higher education was reviewed by experts of the Council of Europe who assessed it generally in positive terms. However, they expressed concern over the possibility that the proposed language(s) of instruction could be used as a basis for granting or denying official recognition to private universities. Moreover, in a report to the OSCE, prepared after a fact-finding mission in April 1997, the International Helsinki Federation for Human Rights stated that it was disturbed by the draft law, which could exclude education in minority languages even at private universities.

C. "Tetovo University"

40. After the Mala Rechica incident in 1995 and police harassment of some students in the first half of 1996, the so-called "Tetovo University", in which instruction is in Albanian, has continued to function de facto without major interference from the Government. In May 1997 the institution received renewed support from the Albanian community and its political leaders. Although the Law on Local Self-Government gives no jurisdiction over higher education to local authorities, mayors of 22 municipalities governed by political parties of ethnic Albanians declared themselves formally as co-founders of the institution, joining the initial three founders from 1994 - the Municipal Councils of Tetovo, Gostivar and Debar. The mayors signed a "Declaration for the University of Tetova", in which they took responsibility for its future and stated that, if the Government continued to fail to give financial support, they would be compelled to take concrete measures for its financing.

41. The Special Rapporteur notes that the moment is approaching when the first young people will graduate from "Tetovo University", after spending four years of their lives in acquiring what would appear to be invalid university diplomas. This will complicate the situation, increasing the need for dialogue among the parties to reach a satisfactory solution to the problem. The Government continues to take the position that it is under no obligation to support minority-language institutions of higher education, but the futures of the graduates of "Tetovo University" must be taken into account.

D. The right to foster cultural identity - The question of flags

42. The tragic incident which took place at Gostivar on 9 July 1997 (see sect. IV above) was the culmination of a controversy in the former Yugoslav Republic of Macedonia over the potent issue of the use of flags - in this case, Albanian and Turkish flags - as cultural symbols. Since the establishment of the new system of local self-government in late 1996, local

authorities in some communities in the western part of the country, ruled by the Democratic Party of the Albanians, have taken the position that the right of minorities under the law to use cultural symbols extended to the display of Albanian and Turkish flags in front of municipal buildings. The flags which have been used are identical to the State flags, respectively, of Albania and Turkey.

43. By its decisions of May and June 1997, the Constitutional Court held that the flags in question impermissibly represented the sovereign attributes of Albania and Turkey, although the local authorities have insisted that the flags have only cultural and ethnic significance. However, the Government soon thereafter took the view that use of the flags does not inevitably implicate the State's legitimate interest in ensuring State sovereignty and integrity, and it proposed the Law on the Usage of Flags by Which Persons Belonging to National Minorities in the Republic of Macedonia Express Their Identity and National Attributes, which the Parliament approved and enacted on 8 July 1997. This law (and the Law on the Usage of the Coat of Arms, the Flag and the Anthem of the Republic of Macedonia, enacted on 3 July 1997) finally gives legal shape to the right of minorities to use flags which they consider to express their identities and national attributes. While imposing no conditions on the design of the minority flags or their use at private occasions, the laws hold that minority flags must be smaller in size than the State flag of the former Yugoslav Republic of Macedonia, and may be displayed only on national holidays at local self-governed municipalities where a national minority makes up a majority of the municipal population.

44. The Special Rapporteur recognizes the delicacy and complexity of the issue of flags, and she offers no legal judgement concerning the parties' positions in the debate. She considers, however, that the new law on minority flags of 8 July 1997 appears to be a reasonable compromise, taking into account the interests of all sides.

VII. FREEDOM OF RELIGION

45. The new Law on Religious Communities and Religious Groups was passed in July 1997. As its name indicates, the law is founded on the view that there are two different types of religious associations, one consisting of the three largest religions in the country - the Macedonian Orthodox Church, the Islamic Community and the Roman Catholic Church - classified as "religious groups", and a second type, encompassing all remaining religions, which are classified as "religious communities". The Special Rapporteur notes the strong criticism with which the Law was received among many religious groups in the country, which argue that it favours "traditional" religions over so-called "new" religions. The Law provides that religious services may be performed only by communities or groups registered by the Government. It is alleged that the Law restricts the use of printed materials and employment of foreign lecturers, and hinders religious instruction of children.

46. The long-standing issue of the inability of persons belonging to the Serb minority to exercise freely their religion and register religious communities of the Serb Orthodox Church remains unresolved. Serb Orthodox Church clergy continue to be prohibited from entering the country or holding

services for the Serb population. It is felt that passage of the new Law on Religious Communities and Religious Groups makes resolution of this issue even less likely.

VIII. SITUATION OF THE MEDIA

47. The long-awaited Law on Broadcasting, which was expected to restore order to the electronic media and provide a framework for the functioning of several hundred private outlets which have appeared in recent years, was passed on 24 April 1997. The Law provides for nationwide public and private electronic media outlets. They are to be approved for operation by government concession, based on the recommendation of the Radio-Diffusion Council, an independent body of citizens which, among other roles, is to supervise the granting of concessions and government funds for broadcasting. Private outlets may broadcast nationwide on the condition that they reach at least 70 per cent of the population. The Radio-Diffusion Council was appointed by the Parliament on 16 July and held its constitutive session on 5 September. According to the new Law's provisions, it may be expected that the first concessions will be issued by the end of the year. In vague language which has caused concern, the Law allows "programming quality" to be used as a criterion for the granting of concessions.

48. The growth of private media initiatives which compete against State monopolies both in electronic and print media seems finally to be bringing tangible benefits for citizens. For example, in April 1997, the independent daily newspaper Dnevnik reduced its price to one sixth that of the largest national daily, Nova Makedonija, making it possible for virtually every citizen in the country to afford the daily press and not depend exclusively on the electronic media to receive information. The move compelled the Nova Makedonija publishing house, which produces the other four dailies in the country, to take up the challenge and start reducing the prices of its publications.

IX. RIGHT TO AN ADEQUATE STANDARD OF LIVING

49. The economic situation in the former Yugoslav Republic of Macedonia remains difficult, and it continues to limit the Government's progress in providing for full enjoyment of economic and social rights. The number of unemployed persons has risen to more than 30 per cent of the active population, while those who are employed often receive their salaries and benefits only after delays. The overall cost of living has seen a steady increase. The adverse consequences of the situation from 1992 to 1995, when the country was harmed by the effects of the United Nations sanctions against the Federal Republic of Yugoslavia and the unilateral embargo imposed by Greece, are still present. However, after a long period of serious decline in the economy, industrial production has recently shown a slight increase, offering hopeful prospects of new jobs. As elsewhere, it is evident that economic problems in the former Yugoslav Republic of Macedonia have negative repercussions on the overall human rights situation.

X. THE SITUATION OF REFUGEES

50. Most refugees who had come to the former Yugoslav Republic of Macedonia, mainly from Bosnia and Herzegovina, have now left for third countries or been repatriated. According to UNHCR, their number has decreased from some 30,000 in 1992 to 3,500 at present, with most of those remaining in the process of repatriation. They are mainly women and children, and are housed in collective centres which offer satisfactory accommodation. Refugee children have full access to education. UNHCR has stressed that the Government has shown good cooperation in addressing the overall needs of refugees as well as a readiness to discuss problems on a case-by-case basis.

XI. CONCLUSIONS AND RECOMMENDATIONS

51. The Special Rapporteur believes that the Government of the former Yugoslav Republic of Macedonia has made considerable progress in the protection of human rights since the establishment of the Special Rapporteur's mandate in 1992. Slow but steady achievements in legislative reform have finally resulted in a system of laws which appears to offer reasonable guarantees for the observance by the authorities of a wide range of internationally recognized human rights. While technical implementation of some aspects of these laws has not yet been achieved, in part due to financial constraints, the Special Rapporteur is reasonably convinced that the Government is committed to full implementation of legal reform at the earliest possible opportunity.

52. Law and practice are often quite different, and it is undoubtedly true that some important legal provisions continue to be violated by the authorities with disturbing frequency. In particular, the Special Rapporteur remains concerned by abuse of police authority, including in the form of unlawful arrests and detentions, excessive use of force and physical ill-treatment of detainees. She strongly urges the Government to continue to take all possible measures to prevent these abuses in the future.

53. At the same time, it must be acknowledged that some key steps have been taken by the Government, following previous recommendations of the Special Rapporteur. In this regard, the Special Rapporteur was most pleased by the creation of the Office of the Ombudsman in 1997. In her view, the Ombudsman has a solemn duty to protect the interests and human rights of citizens when it appears that the Government is unwilling to do so. The Ombudsman must maintain strict independence from the Government, and at the same time, close contact with citizens. The Special Rapporteur has recommended to the new Ombudsman, Mr. Branko Naumovski, that he communicate regularly with non-governmental human rights organizations and other citizens' groups to learn of their concerns and be able to respond appropriately. She has also urged him to be in contact with ombudsman offices in other countries, to have the benefit of their experience. The Special Rapporteur wishes Mr. Naumovski success in his important assignment, and trusts that he will exercise his responsibilities with the commitment and energy that they will require.

54. The Special Rapporteur was also encouraged by the passage of a new Law of Criminal Procedure in March 1997, which includes provisions which she had earlier recommended. She is especially pleased by the requirement that police must now obtain court orders and show them before they can require citizens to attend so-called "informative talks". Although the revised law is an

improvement, the Special Rapporteur is nevertheless aware that it is sometimes still violated, as was the case following the Gostivar incident of July 1997. She strongly urges the Government to take all possible measures to ensure that police respect their new obligation to seek and produce written court orders before calling citizens in to "informative talks".

55. The tragic clash between police and demonstrators at Gostivar on 9 July 1997, in which three persons were killed and many others injured, involved an excessive use of force by the police of the former Yugoslav Republic of Macedonia. Without regard to the stated fear of the authorities that local Albanians intended to resist police removal of minority flags by force, the police were under an obligation to use only the amount of force reasonably necessary to maintain law and order under the circumstances. This obligation was not respected by the police in the Gostivar incident.

56. The Special Rapporteur has therefore recommended to the Government of the former Yugoslav Republic of Macedonia that it make urgent arrangements for a strengthened training programme for police which will involve the participation of international agencies and experts in the field. The programme should envisage not merely brief seminars, but a permanent mechanism for ongoing instruction by experienced international police. Its supervision could fall under new provisions of an extended UNPREDEP mandate and could be supported by the technical cooperation project which the Government envisages undertaking with the Office of the United Nations High Commissioner for Human Rights.

57. In a letter of 17 September 1997, the Minister of Foreign Affairs advised the Special Rapporteur that her suggestions regarding police training "have been favourably received and are being carefully considered". The Minister of Internal Affairs, in a letter of 18 September 1997, indicated that the Government already has a number of programmes under way, in "bilateral and multilateral cooperation, [and] exchange of experiences and experts with several States ... and international organizations". However, the Special Rapporteur wishes to refer to programmes specifically focused on the subjects of human rights and democratic policing. She hopes and expects that the Government's commitment to undertake such programmes will be respected.

58. Concerning the inquiry presently being conducted by the authorities into the Gostivar incident, the Special Rapporteur has strongly recommended that police officers implicated in the use of excessive force be immediately suspended from duty, pending the inquiry's final results.

59. The Special Rapporteur has always stressed that the benefits of human rights protections must extend to all members of society equally. However, in a multi-ethnic society such as that in the former Yugoslav Republic of Macedonia, the human rights of minority populations require special attention. The Special Rapporteur believes that the Government of the former Yugoslav Republic of Macedonia has generally implemented policies which have protected and advanced minority rights while at the same time preserving the rights of all citizens of the Republic. Certain areas of concern remain and additional measures should be taken by the Government. However, on balance the Special Rapporteur wishes to commend the Government for its efforts in the field of minority rights.

60. The continued under-representation of minorities in public administration, allegedly as a result of candidates' inadequate qualifications, highlights the ongoing need to improve access for minorities to proper education at all levels. The aspirations of members of the Albanian minority to higher education in their mother tongue must be viewed in light of the Constitution which, while giving no guarantees, does not forbid higher education in minority languages at private institutions. The Government must strive to reach a reasonable balance of interests on this issue.

61. The Special Rapporteur calls upon the Government and leaders of the Albanian community to work together to address the problems raised by the existence of the so-called "Tetovo University". The interests of young people who have conducted their studies there should be the parties' main concern.

62. The Special Rapporteur urges the Government of the former Yugoslav Republic of Macedonia to continue to maintain its close communication and cooperation with international offices concerned with minority issues, notably the office of the OSCE High Commissioner for National Minorities.

63. The Special Rapporteur welcomes positive developments in freedom of the media, with increased competition between State and private media outlets. She notes the new Law on Broadcasting as a positive step, but cautions that the imposition of vague conditions for receiving public concessions could lead to undue government interference with free expression.

64. The Special Rapporteur underlines the importance of peace for human rights protection, and urges the Government of the former Yugoslav Republic of Macedonia to maintain constructive dialogue in its bilateral relations with its neighbours, in particular with the Republic of Albania.

65. On the basis of her observations and the commitments which the Government has made to her, the Special Rapporteur recommends to the Commission on Human Rights that it remove the former Yugoslav Republic of Macedonia from her mandate. The Special Rapporteur recommends that she retain the right to comment on developments in the country which may occur between the date of the present report and the fifty-fourth session of the Commission on Human Rights. She further recommends that the Office of the United Nations High Commissioner for Human Rights maintain its presence in Skopje to work on implementation of its technical cooperation project with the Government.

66. Until the fifty-fourth session of the Commission on Human Rights, the Special Rapporteur will continue to follow the overall human rights situation in the former Yugoslav Republic of Macedonia, paying special attention to the implementation of additional training programmes for the police, the functioning of the Office of the Ombudsman, observance of the new Law on Criminal Procedures, especially regarding so-called "informative talks", and improved higher education for minorities. She is confident, however, that the former Yugoslav Republic of Macedonia is committed to meeting its obligations to protect the human rights of the country's citizens, and she looks to the Government to live up to this commitment in the months and years to come.